The Quid Novi

45/05

MONTREAL, QC MCGILL UNIVERSITY FACULTY OF LAW - FACULTÉ DE DROIT DE L'UNIVERSITÉ MCGILL 31 OCT 2023

LETTER FROM THE EDITOR

Pablo Mhanna-Sandoval | 2L

This week's edition of the Quid reflects the pain that many of our readers have been feeling for weeks now. As the Faculty's paper of record, we have decided to publish pieces from both individuals and organizations on the violence in Palestine and in Israel. This discussion has been ongoing and has shown that our Faculty is not isolated from the rifts we are observing in wider Canadian society.

While on a recent walk with a new friend, we discussed the notion that people's life experiences vary so greatly that it is very difficult, if not impossible, for all of us to agree on certain political questions. Given recent events in Montreal, including on McGill's campus and at Chancellor Day Hall, this seems to ring true.

This does not relieve us as a community, however, of the responsibility of finding some common ground on the matter. If I may be so bold, I would argue that our student body agrees on the inexcusability of harming innocent civilians. However, the behaviour of many students at the Faculty does not reflect this belief–which I sincerely believe all of us share. It is deeply misguided for some to have taken down posters of Israeli hostages from the walls of the Faculty building. It is also misguided to deny or equivocate Israel committing war crimes against civilians in the Gaza Strip in its bombing campaign and its regime of control over the area. I am confident that in our shared humanity we can come to agree on this starting point.

That's enough from me. I wish to share, and have herein reproduced in full, an open letter written by both the Muslim and Jewish law students associations of our future colleagues at uOttawa. It is a text imbued with both deep pain and respect for each other which moved me deeply. I encourage you to read it in full. We would be wise to heed its call.

CETTE SEMAINE...

INSIGHTS

3 | FINDING PEACE AND RESILIENCY THROUGH POETRY

4 | A PERSONAL REFLECTION ON THE ISRALI-PALESTINIAN CONFLICTS

6 | LAW STUDENTS FOR PALESTINE AT MCGILL CONDEMN MASS VIOLATIONS OF HUMANITARIAN AND INTERNATIONAL LAW!

11 | MCGILL LAW STUDENTS & ALUM STAND IN SOLIDARITY WITH PALESTINE
No Genocide in Our Name!!

14 | WHY IS "COMMON LAW" STILL "COMMON LAW" IN FRENCH?

17 | TELLING ANOTHER'S STORY
How Martin Scorsese Told an Osage Story with Respect

COMMUNAUTÉ

3 | WILFRID LAURIER'S PORTRAIT IN 202
The Little Known "Art Subcommittee" and Visual Legacies on Our Walls

5 | CHRLP CALL FOR STUDENT PAPERS

8 | MEET THE QUID
Giuseppe Sutera Sardo

10 | JLSA STATEMENT

10 | MEET THE QUID
Brandon Grimaldi

12 | THE HONOURABLE GI SMITH MEMORIAL TRUST

13 | VICTORIA FISHER MEMORIAL PRIZE 2023: WOMEN AND THE LAW

16 | CHRLP OPEN CALL FOR BLOG POSTS

18 | LETTER TO McGILL LEADERSHIP

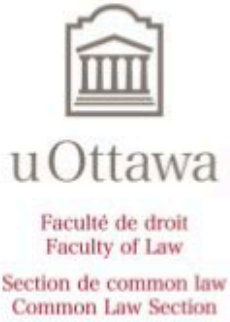
EVENTS

9 | THE JOHN P. HUMPHREY LECTURE IN HUMAN RIGHTS
The Universal Declaration of Human Rights at 75: Between Crisi and Renewal

15 | REIMAGINING CRIMINAL JUSTICE
A Trauma-Informed, Human Rights & Indigenous Justice Way Forward

GAME

15 | CROSSWORD



We're coming together at a very troubled time to acknowledge each other and the need to keep our spaces safe and open for dialogue. We want to focus on what unites us, not what divides us, and that is our common humanity.

We recognize that Jewish and Muslim lives are equally valuable and important, and that every loss of life is tragic and represents a story and a family, and a whole circle of people who are grieving.

Both our communities are grieving right now, and we're coming together to say we want to focus on what unites us. We also extend our thoughts to Christians, Druze and other minorities in the region who are suffering and grieving.

We all recognize that these rising tensions and divisions are driving fear and anxiety. We are also aware that there are members of our communities that have family and loved ones that are being directly impacted by this war. With racism, antisemitism, and Islamophobia rising, we simply will not be bystanders in the face of hate.

We urge all professors, lecturers, and students to understand the present context when exercising your freedom of expression, and making your points: this is an exceptionally raw and difficult time. Members of our law school community have lost loved ones in this conflict. We call on you to show a commensurate level of sensitivity and tact. As leaders of our respective communities, we call upon our Ottawa Law family to focus on how our shared pain unifies us instead of letting hatred divide us. We ask that you listen to each other with empathy, dignity, and respect.

We are conscious that the situation continues to be extremely critical, and that this is a very troubling time that is causing a lot of anguish for both the Jewish and Muslim communities. We recognize that other communities are affected as well.

We wish to acknowledge the support of Dean Boon, and the entire administration at the Faculty of Law, through this challenging time, and Arjun Gupta, a 2L student, for convening us.

MLSA CO-PRESIDENTS
Hasan Ferdous & Hanaa Ameer

JLSA PRESIDENT
Shayna Horvath

FINDING PEACE AND RESILIENCY THROUGH POETRY

Weeam Ben Rejeb | 3L

The story of the Palestinian people is a long and beautiful one. For many of us, the plight of Palestine is a reality we grew up with, on our screens and in our hearts. We grew up learning about the Balfour Declaration, the 1947 UN Partition Plan, the subsequent Nakba, the Arab-Israeli war, the Intifada, and the siege on Gaza; and we continue to learn and witness the structural violence imposed on the Palestinian people. It didn't start on October 7, and will not end with the destruction of Gaza.

For my peers who became more intimately aware of Palestine and its struggle in light of the most recent iteration of violence, I wanted to share a few short poems and sayings by Palestinian artists and writers which have helped me grieve and find strength. I want you to remember that despite the violence, Palestinians also experience joy, love, passion, and dreams, and I hope that you can feel their words in your heart.

Mahmoud Darwish
She says: when are we gonna meet?
I say: after a year and a war.
She says: when will the war end?
I say: the time we meet

Marwan Makhoul
In order for me to write poetry that isn't political
I must listen to the birds, and
in order to hear the birds
the warplanes must be silent

Fadwa Tuqan
Enough for Me
Enough for me to die on her earth
be buried in her
to melt and vanish into her soil
then sprout forth as a flower
played with by a child from my country.
Enough for me to remain
in my country's embrace
to be in her close as a handful of dust
a sprig of grass
a flower.

Maya Al-Hayyat
Sooner or later, all leaves fall to the ground.
You can be the last leaf.
You can convince the universe
that you pose no threat
to the tree's life.

Mahmoud Darwish
The war will end
The leaders will shake hands
The old woman will keep waiting for her martyred son
That girl will wait for her beloved husband. And those children will wait
for their heroic father
I don't know who sold our homeland. But I know
who paid the price.

WILFRID LAURIER'S PORTRAIT IN 202

The Little Known "Art Subcommittee" and Visual Legacies on Our Walls

Frédéric Mégret | Art Subcommittee

It was pointed out in issue 45:2 of the Quid (Nicolas Kamran, "If These Walls Could Talk: Critical Race Theory under the Watchful Eyes of Sir Wilfrid Laurier") that a portrait of Sir Wilfrid Laurier was hanging in a room where critical race theory is taught. The portrait has been removed.

It seems an apt occasion to remind or inform readers of the Quid of how decision making about space and art take place in the Faculty of Law. The Space Committee, consisting of myself as chair, Professor Rosalie Jukier, Assistant Dean Vanessa Batik, Building Director Margaret Baratta, and Faculty Administrator Debbie Carlone, reports to the dean. Reporting to it is the Art Subcommittee, consisting of myself as chair and Assistant Dean Batik, with Professor Aaron Mills serving as liaison between the Art Subcommittee and the TRC Subcommittee.

The Art Subcommittee is committed to ensuring that our shared space reflects the rich tapestry of traditions that make it unique and is inclusive and, ideally, aesthetically pleasing and stimulating. This involves a rolling evaluation of choices that were sometimes made a long time ago for reasons long forgotten concerning pieces of art or memorabilia that now seem embedded in the decor. As the author pointed out, this is precisely the problem, and why it is important to critically assess some of these remnants and the extent to which they may now seem at odds with our faculty priorities. We could not agree more.

The subcommittee had not gotten to room 202 because the entire second floor is slated for a fundamental remodelling to make way for an Indigenous teaching and learning space. It had, however, already removed from the Caren and Jordan H. Waxman Common Room a bigger portrait of Sir Wilfrid, based on the same assessment as the author's. A fuller renewal of the pieces hanging in that splendid room is awaiting implementation. The subcommittee seizes this opportunity to salute student engagement with their surroundings and affirms its openness to all suggestions to make our shared spaces reflect our evolving identities, diversity, and engagements.

A PERSONAL REFLECTION ON THE ISRAELI-PALESTINIAN CONFLICTS

Samuel Benzaquen, JLSA co-president | 2L

Disclaimer: The purpose of this article is not to advance arguments, provide historical context, or to interpret facts. There have been plenty of words written on these topics already, and I would encourage the Quid's readers take the time to learn about the issue and form their own opinions.

I do not normally discuss the Israel-Palestine conflict with people I know I will disagree with fundamentally. I have found that there are often insurmountable differences of opinion, and it is not productive or helpful to engage. I was considering not writing an article in the Quid because I couldn't control which audience this would reach.

However, I feel compelled to express my perspective. I hope that it will help people understand my side and introduce some humanity into an increasingly divisive topic.

To the average student, the Israel-Palestine conflict may seem to be another one of those heated political divides on campus. To me, though, the legitimacy of Israel as a Jewish homeland is not just some philosophical or political discussion. It is highly personal. My parents met in Israel. My grandparents and uncle currently live there. I lived in Israel for 2 years after high school. I visited many small towns near border lines, and ate with families on many Jewish holidays, not unlike the holiday on which the terrorists attacked on October 7. Just last December I visited the Erez crossing, one of the Hamas breach points. I do not read the news out of curiosity or disconnected interest. I read it with dread and with pain that the land I used to live in is now embroiled in a brutal war.

But my connection to Israel runs deeper than just my experience in the land. It implicates a core part of my Jewish identity. I have literally spent thousands of hours of my life studying the Torah, Talmud, and other religious Jewish works. All throughout these texts are mention of how Jews are connected to the land of Israel and cleave to it. Not Uganda. Not Saskatchewan. Israel. Just as Muslims pray towards Mecca, my entire life I have prayed three times a day facing towards Israel, as countless other Jews do. My eldest brother's middle name is Israel.

I have no objection to the notion of someone exercising their right to free speech. However, I would be lying if I said it doesn't bother me deeply when someone who has no idea what Israel means to the Jewish people decides to deny the Jewish connection to the land and refer to Jewish people as colonizers. It upsets me when people who I would call my friends refer to the process of Hamas atrocities as an act of decolonization. It is disturbing when people stay silent when Jews are massacred for the simple act of existing but cry out for an immediate ceasefire when Israel dares to fulfil its moral duty to defend its citizens. I am not justifying all of Israel's actions. It would be comical if it weren't sad that people who claim to be nuanced and educated completely and utter fail to recognize the Israeli side of the conflict.

Over the course of my upbringing, I was repeatedly instilled with the narrative that whatever country we live in, Jews are never safe. As a child, I learned the stories in the Torah describing Jewish exile from Egypt. I visited Holocaust museums and heard recountings from Survivors. My family's history expresses the timelessness of this truth. My father's family was exiled from Spain by the Inquisition in the 1400s, and my mother's parents immigrated from Morocco to Canada in the 1970s due to increasing danger to Jews. But I never truly felt threatened. After all, Canada is built on a foundation of freedom of religion, respect, and tolerance for other cultures.

My attitude has changed since the attacks on October 7. The day after the attacks, there were protestors celebrating the Hamas atrocities just minutes' walk from my apartment. When tabling at the Y-intersection last Tuesday giving out snacks and candles, my friends were spat at and called "disgusting Jews". They didn't say "Israelis" or "Zionists". They said "Jews". After the walkout on Wednesday, I spoke to a student who claimed, "Only 50 people were killed on October 7" and "Zionists control CNN and New York Times". There were people in Montreal openly waving Hamas flags. There are students in the Law Faculty ripping down posters requesting the release of hostages from Hamas. For the first time in my life, I feel like I am living in a society where a pogrom or lynching could happen against me or other Jewish people. And I don't think I will ever be able to shake it off.

McGill | Faculty of Law | Faculté de droit

McGill Centre for Human Rights and Legal Pluralism | Centre sur les droits de la personne et le pluralisme juridique de McGill

CALL FOR STUDENT PAPERS

The Centre for Human Rights and Legal Pluralism (CHLPR) invites the submission of original or unpublished papers relating to the theme "**Solidarity and Strength: Responses to New Challenges in LGBTI Activism and Advocacy**" for the 2024 Martine Roy Student Colloquium.

The current moment in history poses new difficulties and opportunities for LGBTI rights and activism worldwide. The theme of ILGA-Europe's 2023 Annual Conference – Rising to the Moment – asks how to build resilience, capacity, and unity within the movement in order to confront both internal and external pressures to activism and advocacy. In this spirit, the 2024 Martine Roy Student Colloquium invites participants to consider new issues in LGBTI activism, reflect upon lessons learned and pathways forwards, and place these issues within the greater international and domestic contexts in which they take place.

The colloquium is named in honour of Martine Roy, a strong advocate of justice for LGBTI communities since 1984 when she was discharged from the Canadian Armed Forces for her sexual orientation. In 2017, she and others received an apology from the Canadian Government. Ms. Roy continues her leadership and LGBTI advocacy to this day. In conjunction with the Michelle Douglas lecture, the Colloquium aims to advance scholarship on and engagement with LGBTI issues, both domestically and internationally.

The Colloquium will take place on **Friday, March 15th, 2024**. Selected students will be given the chance to present their papers, and the best paper will receive a prize. All the papers presented at the Colloquium will be published in a Working Paper Series: https://www.mcgill.ca/humanrights/research/working-papers

Please include an abstract of no more than 250 words with the submission. Writers are welcome to submit papers and abstracts in either English or French.

Papers should be between 5000 and 8000 words in length, not including footnotes and bibliographies. Please use a standard 12-point font and 1-inch margins. Citations should follow either MLA, APA, or the Canadian Guide to Uniform Legal Citation 10th edition.

Participation is open to all part- and full-time students registered at McGill University at the time of submission. The colloquium encourages an interdisciplinary approach to the theme, and undergraduate and graduate students in all faculties are encouraged to submit. Essays written for classes, as well as original papers, are welcome for submission.

Please submit papers, abstracts, and all questions to the Centre at chrlp.law@mcgill.ca by **Friday, January 26th, 2024.**

@McGillCHRLP

YouTube McGill Centre for Human Rights & Legal Pluralism

LAW STUDENTS FOR PALESTINE AT MCGILL CONDEMN MASS VIOLATIONS OF HUMANITARIAN AND INTERNATIONAL LAW!

First Public Statement of Law Students for Palestine at McGill

Law Students for Palestine at McGill

As students of the Faculty of Law at McGill University, we are writing to express our solidarity with the people of Palestine and to condemn the violations of international law currently unfolding in Gaza. While we are a collective of current law students at McGill, the views we express are our own and do not reflect those of the faculty as a whole.

We approach this issue as a humanitarian catastrophe, condemning violence and breaches of international law by all parties. Grief does not discriminate, and we mourn with all those whose loved ones have been lost, displaced or put in danger by this conflict.

The attack by Hamas on October 7, which targeted civilians and involved the taking of hostages, violated international humanitarian law.[1] In response to the attack, Israeli Prime Minister Benjamin Netanyahu declared Israel at "war," vowed to "take mighty vengeance,"[2] and committed several war crimes[3], including:

- Indiscriminate bombing, which as of October 26 has killed 6,850 people, 70% of whom are children, women and the elderly.[4]
- Indiscriminate bombing, which has killed 3,000 Palestinian children in Gaza.[5]
- Indiscriminate bombing, which has injured more than 17,000 Palestinians in Gaza.[6]
- Indiscriminate bombing, causing destruction to an UNWRA school[7] as well as Gaza's oldest church[8] and numerous mosques.[9]
- Indiscriminate bombing, causing destruction to healthcare facilities, ambulances, refugee camps and the killing of four Palestine Red Crescent paramedics.[10]
- The use of white phosphorus on October 10th and 11th.[11]
- The October 13th order to civilians in northern Gaza to evacuate, which resulted in the mass forced displacement of more than 1 million people.[12]

By indiscriminately bombing Gaza[13] and shutting off civilians' access to water, internet, and electricity,[14] Israel

[1] See Human Rights Watch, "Questions and Answers: October 2023 Hostilities between Israel and Palestinian Armed Groups" (9 October 2023) online: <https://www.hrw.org/news/2023/10/09/questions-and-answers-october-2023-hostilities-between-israel-and-palestinian-armed#One>.

[2] See Brian Buschard, "Israel Vows 'Mighty Vengeance': Unprecedented Hamas Attack Leaves At Least 200 Dead" *Forbes* (7 October 2023) online: <https://www.forbes.com/sites/brianbushard/2023/10/07/israel-vows-mighty-vengeance-unprecedented-hamas-attack-leaves-at-least-200-dead/?sh=557db1ff688d>.

3 See Amnesty International, "Damning evidence of war crimes as Israeli attacks wipe out entire families in Gaza" (20 October 2023) online: <https://www.amnesty.org/en/latest/news/2023/10/damning-evidence-of-war-crimes-as-israeli-attacks-wipe-out-entire-families-in-gaza/>.

[4] See WAFA News Agency, "Gaza death toll surges to 6,955, over 19,000 injured" (26 October 2023) online: <https://english.wafa.ps/Pages/Details/138673> [WAFA News Agency].

[5] See Farah Najjar, Joseph Stepansky and Arwa Ibrahim, "Israel-Hamas war live: Palestinian envoy urges UN to 'stop this madness'" *Al Jazeera* (26 October 2023) online: <https://www.aljazeera.com/news/liveblog/2023/10/26/israel-hamas-war-live-un-ceasefire-bid-fails-as-gaza-death-toll-soars>

[6] See WAFA News Agency.

[7] See UN News, "Israel-Gaza conflict: Deepening Concern for Civilians, as UN School is Hit" *United Nations* (17 October 2023) online: <https://news.un.org/en/story/2023/10/1142432>.

[8] See Chao Deng, "Israel Military Claims Responsibility for Church Blast in Gaza" *The Wall Street Journal* (20 October 2023) online: <https://www.wsj.com/livecoverage/israel-hamas-war-gaza-strip-conflict/card/israeli-military-claims-responsibility-for-church-blast-in-gaza-ItyUvoIPaeNBEsIeIS6J>.

[9] See Middle East Monitor, "Israel has destroyed 31 mosques in Gaza Strip since 7 October: Ministry" (22 October 2023) online: <https://www.middleeastmonitor.com/20231022-israel-has-destroyed-31-mosques-in-gaza-strip-since-7-october-ministry/>.

[10] See United Nations Human Rights Office of the High Commissioner, "Gaza: UN experts decry bombing of hospitals and schools as crimes against humanity, call for prevention of genocide" (19 October 2023) online: <https://www.ohchr.org/en/press-releases/2023/10/gaza-un-experts-decry-bombing-hospitals-and-schools-crimes-against-humanity#:~:text=Israeli%20bombardment%20on%20Gaza%20has,driving%20to%20treat%20injured%20people>.

[11] See Human Rights Watch, " Israel: White Phosphorous Used in Gaza, Lebanon" (12 October 2023) online: <https://www.hrw.org/news/2023/10/12/israel-white-phosphorus-used-gaza-lebanon> [Human Rights Watch]

[12] See Amnesty International, "Israel/OPT: Appalling Gaza 'evacuation order' must be rescinded by Israel Immediately" (13 October 2023) online: <https://www.amnesty.org/en/latest/news/2023/10/israel-opt-appalling-gaza-evacuation-order-must-be-rescinded-by-israel-immediately/>.

[13] See Amnesty International, Press Release, "Israel/OPT: unlawful Israeli airstrikes on Gaza have 'decimated' entire Palestinian families" (20 October 2023) online: <https://www.amnesty.org.uk/press-releases/israelopt-unlawful-israeli-airstrikes-gaza-have-decimated-entire-palestinian>.

[14] See Amnesty International, "Israel must lift illegal and and inhumane blockade on Gaza as power plant runs out of fuel" (12 October 2023) online: <https://www.amnesty.org/en/latest/news/2023/10/israel-opt-israel-must-lift-illegal-and-inhumane-blockade-on-gaza-as-power-plant-runs-out-of-fuel/>.

has violated Article 3 of the Geneva Convention, which requires that parties to a conflict distinguish between civilians and combatants at all times. Israel's actions further violate Article 33 of the Geneva Convention, which prohibits collective punishment.[15] These are war crimes, even when done in self-defense, when civilians are warned in advance, when combatants are hiding among civilians, and when the collective punishment is done strategically to neutralize a threat.[16]

Long before October 7, Israel was imposing a system of Apartheid on Palestinians.[17] Israel's recent attempts to drive Palestinians out of Gaza also fits the UN definition of ethnic cleansing,[18] and we share the concern of many in the international community that Israel may currently be engaging in genocide of Palestinians.[19]

While most of the attention has been on the atrocities occurring in Gaza, we cannot ignore the escalated violence also taking place in the West Bank. Between October 7 and October 26, 105 Palestinians have been killed in the West Bank.[20] In the Palestinian town of Qusra, Israeli forces and settlers have damaged Palestinian homes and a mosque, burned down olive groves, and have even killed a father and a son during a funeral procession for four Palestinian men killed by settler violence earlier in the week.[21]

We are deeply concerned by the systemic silencing of Palestinian voices and of those who express any show of solidarity for the plight of the Palestinian people. This systemic silencing often manifests through doxxing, harassment and intimidation.[22] This undermines our collective rights as Canadians, to freedom of expression and freedom of peaceful assembly.[23] While the 67 of us – a number that is quickly growing –would love to individually sign our names as we recognize that there is power in numbers, we are troubled by the fact that people who speak out against the ongoing occupation, apartheid and genocide of Palestinians are facing personal and professional repercussions and even risk losing their jobs.[24]

Israel's continued violations of international law in Gaza and the West Bank are clear and unjustifiable. War crimes by one group do not justify war crimes by another.

As future jurists, we are horrified by the flagrant violations of international human rights and humanitarian law currently taking place in Gaza. We urge our fellow students and practitioners to take action to support the restoration of rights and dignity of Palestinians, in order to move toward a lasting peace, free not just of the violence of the last few weeks, but of the violence that Palestinians have been experiencing for decades under colonial occupation.

Lastly, while we do not want to engage in a futile back and forth on the subject, we would be remiss to ignore the McGill Jewish Law Students Association (JLSA)'s response to an earlier version of this statement (published on social media) last Wednesday. We recognize the statement comes from people that are hurting and in immense grief. We would never want to diminish that and we share in their mourning.

The JLSA's statement did not meaningfully critique any of the points we have made and furthermore propagated numerous dangerous theories based on IDF reports rather than third party analysts, including: the idea that most of the casualties are the result of Hamas using Gazans as human shields;[25] that it was a Hamas rocket

[15] In 2020, the UN Special Rapporteur on the situation of human rights in the Palestinian Territory occupied since 1967 called out Israel's collective punishment of Palestinians in the Gaza strip as violating the "foundational rule of virtually every modern legal system." See United Nations Human Rights Office of the High Commissioner, Press Release, "Israel's collective punishment of Palestinians illegal and an affront to justice: UN expert" (17 July 2020) online: <https://www.ohchr.org/en/press-releases/2020/07/israels-collective-punishment-palestinians-illegal-and-affront-justice-un>.

[16] See Human Rights Watch, "Questions and Answers: October 2023 Hostilities between Israel and Palestinian Armed Group" (9 October 2023) online: <https://www.hrw.org/news/2023/10/09/questions-and-answers-october-2023-hostilities-between-israel-and-palestinian-armed#One>.

[17] See Situation of human rights in the Palestinian Territories occupied since 1967, UNGA, 77, 356 (2022) Note by Secretary General at para 56, online: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N22/598/03/PDF/N2259803.pdf?OpenElement>. See also Amnesty International, "Israel's apartheid against Palestinians," (last accessed 21 October 2023) online: <https://www.amnesty.org/en/latest/campaigns/2022/02/israels-system-of-apartheid/>.

[18] See Office on Genocide Prevention and the Responsibility to Protect, "Genocide: Definition" (last accessed 21 October 2023) online: <https://www.un.org/en/genocideprevention/ethnic-cleansing.shtml>.

[19] See Third World Approaches to International Law Review, "Public Statement: Scholars Warn of Potential Genocide in Gaza" (17 October 2023) online: <https://twailr.com/public-statement-scholars-warn-of-potential-genocide-in-gaza/?fbclid=IwAR0z3lf2qAuZQCdck5_7eKiXbAEdyE_2bpPKhPgbL9wpnCYZQ4YLH7zE3II>.

[20] See WAFA News Agency.

[21] See Leila Fadel, Arezou Rezvani, and Ari Shapiro, "Palestinians brace for more violence after reprisal attacks in the West Bank" *NPR* (20 October 2023) online: <https://www.npr.org/2023/10/20/1207543936/israel-palestine-hamas-west-bank>.

[22] Maya Abuali, "How McGill fails Palestinian students" *The McGill Tribune* (last accessed 22 October 2023) online: <https://www.thetribune.ca/how-mcgill-fails-palestinian-students/?fbclid=IwAR09V1UJCmRjskmSOyONYZhf2D1pfPd3hMx4Hv0xxRyzlNh7xX0p4XtFOdc>.

[23] *Canadian Charter of Rights and Freedoms*, s 2, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11.

[24] See Brishti Basu, "Ontario doctor suspended, his address published after pro-Palestinian social media posts" CBC (20 October 2023) online: <https://www.cbc.ca/news/canada/doctor-doxed-suspended-palestinian-posts-1.7001887#:~:text=Canada-,Ontario%20doctor%20suspended%2C%20his%20address%20published%20after%20pro%2DPalestinian%20social,war%20between%20Israel%20and%20Hamas>. See also Anemona Hartocollis, "After Writing an Anti-Israel Letter, Harvard Students Are Doxxed" New York Times (18 October 2023) online: <https://www.nytimes.com/2023/10/18/us/harvard-students-israel-hamas-doxxing.html>. See also Alexandra Olson, Anne D'innocenzio and Haleluya Hadero, "Company bosses and workers grapple with the fallout of speaking up about the Israel-Hamas war" *CTV News* (21 October 2023) online: <https://www.ctvnews.ca/business/company-bosses-and-workers-grapple-with-the-fallout-of-speaking-up-about-the-israel-hamas-war-1.6611503>.

[25] It truly feels dystopian and vile to have to argue this. Just watching the live news coverage of what is occurring on the ground in Gaza will show any person that this is not the case. The idea that Hamas uses Palestinians as human shields has been debunked by Human Rights Watch and Amnesty International. See Human

that hit the Al-Ahli Hospital;[26] that there is no credible evidence of the use of white phosphorus;[27] and that Israel is not indiscriminately bombing Gaza.[28]

Yet, what was most shocking about that message was the outright denial of the number of people who have been killed by Israeli airstrikes in Gaza. JLSA argued that Hamas controls the Gaza Health Ministry and that the numbers they provide are, therefore, unreliable. However, many experts, such as Human Rights Watch and the United Nations, rely on the Ministry's numbers. Omar Shakir, Israel and Palestine director at Human Rights Watch, shared with the Washington Post that "everyone uses the figures from the Gaza Health Ministry because those are generally proven to be reliable […] In the times in which we have done our own verification of numbers for particular strikes, I'm not aware of any time when there's been some major discrepancy."[29]

Readers would do well to consult the expansive body of rigorous academic work on colonialism to better understand the relevant political and historical contexts. The dictionary definitions of "colonialism" and "apartheid" leave out important academic context necessary for a full and nuanced understanding of the terms and how they relate to the current situation.

To deny the reality of what is going on in Gaza and the West Bank is to allow for genocide.

Each time a specific group of civilians is the target of militarized violence we say, "never again." Yet, here we are, again, screaming at the top of our lungs "not again" as people turn away from the truth.

In solidarity,

Law Students for Palestine at McGill

Rights Watch, "White Flag Deaths" (13 August 2009) online: <https://www.hrw.org/report/2009/08/13/white-flag-deaths/killings-palestinian-civilians-during-operation-cast-lead. See also Saad Hasan, "Busting the myth of Palestinian 'human shields' in Gaza" *TRT World* (last accessed 26 October 2023) online: <https://www.trtworld.com/magazine/busting-the-myth-of-palestinian-human-shields-in-gaza-46645>.

[26] Proof of what happened at the hospital is still disputed and investigations are on going. See Geoff Brumfiel, "Questions still swirl around Al Ahli Arab Hospital blast in Gaza. Here's what we know" NPR (24 October 2023) online: <https://www.npr.org/sections/goatsandsoda/2023/10/24/1208211857/questions-still-swirl-around-al-ahli-arab-hospital-blast-in-gaza-heres-what-we-k>. See also Aric Toler, et al., "A Close Look at Some Key Evidence in the Gaza Hospital Blast" *New York Times* (24 October 2023) online: <https://www.nytimes.com/2023/10/24/world/middleeast/gaza-hospital-israel-hamas-video.html>.

[27] Human Rights Watch has documented evidence of its use on October 10 and 11. See Human Rights Watch, *supra* note 11.

[28] Israeli officials have even admitted to indiscriminate bombing. See B'Tselem, "One crime does not justify another. The attack against civilians in Gaza must end" (19 October 2023) online: <https://www.btselem.org/gaza_strip/20231019_one_crime_does_not_justify_another_he_attack_against_civilians_in_gaza_must_end>.

29 See Adam Taylor, "Why news outlets and the U.N. rely on Gaza's Health Ministry for death tolls" *Washington Post* (25 October 2023) online: <https://www.washingtonpost.com/world/2023/10/24/gaza-death-toll-palestinian-health-ministry/?fbclid=IwAR03wftbe1gkPLpX-J596iHkeR9ayWW3ToytWgsQlwIW-J38UgTvBsiSSpkMM>.

MEET THE QUID

Copy Editor

Giuseppe Sutera Sardo | 2L

Where are you from/where have you lived?
I'm a proud Montrealer who cherishes his hometown roots, while also treasuring my important connection to Italy.

What drew you to the Quid?
I figured the Quid would be a great way to keep up with what is going on at the faculty, while also developing my editing skills.

Q: What did you do before McGill Law?
In college, I studied natural sciences at André-Grasset. I then completed a double major at Concordia University in history and public policy.

Quel était ton cours préféré avant de commencer à la faculté de droit?
Throughout my academic life, I have been consistently drawn to courses related to American history, and my passion for the subject has only grown with each passing year.

Qu'aimes-tu faire quand tu n'étudies pas?
Whenever I have some free time, I usually head toward a soccer field or spend quality time with my beloved dog Mia. We both share a deep love for sports, although her dribbling skills need a bit of work.

As-tu un quartier préféré à Montréal?
#lavalourien

McGill | Faculty of Law | Faculté de droit

McGill Centre for Human Rights and Legal Pluralism | Centre sur les droits de la personne et le pluralisme juridique de McGill

The John P. Humphrey Lecture in Human Rights

The Universal Declaration of Human Rights at 75: Between Crisis and Renewal

Anna Sevortian
O'Brien Fellow, McGill Faculty of Law
Senior Advisor to the EU-Russia Civil Society Forum

Alex Neve
Former Secretary General, Amnesty International Canada
Adjunct professor of international human rights law, University of Ottawa and Dalhousie University

November 15, 2023
17:30 - 19:00 PM (ET)
McGill Faculty of Law
New Chancellor Day Hall
Maxwell Cohen Moot Court
Room 100

Yuri Romana-Rivas
DCL O'Brien Fellow, Vanier Fellow, McGill Faculty of Law

Join us for a panel discussion to mark the 75th Anniversary of the Universal Declaration of Human Rights, with moderator Professor Frédéric Mégret, CHRLP Co-Director and Professor at McGill Faculty of Law

Professor Frans Viljoen
Professor, Faculty of Law, University of Pretoria

@McGillCHRLP

YouTube McGill Centre for Human Rights & Legal Pluralism

JSLA STATEMENT

McGill Jewish Law Students' Association

The JLSA is deeply disturbed by the statements put out by "Law Students for Palestine at McGill" (LS4PM), an unidentified group of our colleagues and classmates, which misrepresents the reality of the situation in Israel and Gaza. In the interest of providing context, we have set out our responses to many of the claims that these statements make in the attached document (see here: https://tinyurl.com/y7d7wkdh)

As Jewish law students, we are extremely concerned about the spread of misinformation online by LS4PM and other student groups about Israel, the indigenous homeland of the Jewish people and home to many of our family and friends. This kind of misinformation creates a toxic and unsafe environment for Jews both on campus and in general society.

We are also gravely concerned about the allegations made by LS4PM that Israel is a colonial enterprise. The definition of colonialism is "domination of a people or area by a foreign state or nation."[1] Implying that Jews are foreign to Israel denies the historical connection of an indigenous people to their land and is itself an action of colonial repression.

Just over two weeks ago, Hamas, a terror group that oppresses Gaza through its brutal and totalitarian regime, perpetrated some of the most barbaric atrocities that any of us have ever seen. Hamas is explicit in its call for the genocide of Jews. Art. 7 of the Hamas Covenant, its founding document, is perhaps the best example of this, as it implies that the murder of Jews is a religious obligation for Muslims and should be seen as a noble act.[2] It was to this call that Hamas terrorists responded on October 7th.

Hamas terrorists targeted Israeli towns, villages and even a music festival for peace, going house to house to murder civilians. They raped, tortured, and murdered over 1400 men, women, children, and elderly. They also took an unknown number of hostages back to Gaza, estimated to be over 220, the vast majority of whom are still being held.[3]

Faced with such an attack on its civilian population, Israel had no choice but to respond and neutralize the threat. The same day, Israel launched a counteroffensive to clear the terrorists from its territory and made plans to dismantle Hamas' military capabilities. This was in accordance with its right to self-defence, guaranteed to all states under the UN Charter.[4]

We ask all of you to stand with us and demand that the hostages held in Gaza be freed immediately. We also call on Hamas to immediately cease all targeting of civilians by rocket fire and other terror means. We condemn any forms of violence against all civilians, Israeli and Palestinian, and pray for a time when peace will be restored permanently to the region.

[1] "Colonialism." *Merriam-Webster.com* (accessed 24 October 2023).

[2] "Hamas Covenant 1988", reproduced in Lillian Goldman Law Library, *The Avalon Project - Documents in Law, History and Diplomacy*. United States, 2009. Web Archive, https://avalon.law.yale.edu/20th_century/hamas.asp

[3] See TOI Staff, "Pictures of 1,000 Hamas massacre victims displayed at Tel Aviv University exhibition", *TimesofIsrael.com* (19 October 2023), online: https://www.timesofisrael.com/pictures-of-1000-hamas-massacre-victims-displayed-at-tel-aviv-university-exhibition/

[4] See Chapter 7, Article 51, UN Charter, 26 June 1945, Can TS 1945 No. 7.

MEET THE QUID

Copy Editor

Brandon Grimaldi | 2L

Where are you from/ where have you lived?
I was born in Montreal and lived my whole life in the east-end borough of Saint-Leonard.

What drew you to the Quid?
I was always interested in journalism, particularly newspapers run by students. I was very excited to learn McGill had the Quid to offer. The fact that the Quid is able to combine strong researched works, opinion pieces, and some more laid-back articles all in one is something that I enjoy reading and contributing to.

What did you do before McGill Law?
Just a few Metro stops away, I completed my undergrad in political science and public policy at Concordia (they had a tunnel, but I got over it, walking up Peel in the winter is way more fun)

Quel était ton cours préféré avant de commencer à la faculté de droit?
Mes cours préférés étaient les cours d'histoire de n'importe quel temps ou pays. Je suis un gros history nerd!

Was law school a dream come true or a happy accident? Do you want to be a lawyer?
I'm not the "I've wanted to be a lawyer since I was 2" type of person, but attending law school was a goal of mine for quite some time. That being said, I was very happy that my midnight frantic, caffeine-fueled essay writing all the years prior paid off, and I am where I want to be. Very excited to one day practice as a lawyer…just don't know where yet!

As-tu un quartier préféré à Montréal?
C'est difficile de ne choisir qu'un quartier, mais le centre-ville a tellement à offrir pour tout le monde à l'année longue, je l'aime bien!

MCGILL LAW JEWISH STUDENTS & ALUM STAND IN SOLIDARITY WITH PALESTINE

No Genocide in Our Name!!

McGill Law Jewish Students and Alumni

McGill Law Jewish students & alum stand in solidarity with Palestine: No Genocide in our name!!

We write this statement as a group of McGill law students and alumni who are proudly Jewish, anti-Zionist, and stand in unequivocal support of Palestinian liberation.

We write this because **we refuse to let our Jewish identities be weaponized in order to justify apartheid, war crimes, and the ongoing theft and annexation of Palestinian lands.**

We reject the framing put forth by groups, such as the McGill Jewish Law Association and McGill University administration, that fighting for Palestinian freedom and condemning the actions of the Israeli government makes Jews on campus unsafe. Rather, we know intimately that in order to resist anti-semitism, we must equally resist all other forms of racial, economic and social domination. **As such, we know that our safety as Jews comes not from a theocratic ethnostate, but by condemning war and violence in all its forms and standing in solidarity with all marginalized peoples, *including* and *especially* Palestinians.**

To this end, we want to highlight that Jewish voices are not and should never be treated as a monolith. Equating Zionism with Judaism effectively and insidiously kneecaps any critiques of Israel by suppressing advocates for peace and writing off Jewish activists for Palestine as self-hating. We adamantly reject the notion that Zionism is coextensive with Judaism, believing instead that our Jewish values and the plight of our ancestors teach us to oppose apartheid, genocide, and oppression in all its forms. We accordingly refuse to let our faith be weaponized into violence against Palestinian civilians.

Jews are too often presented as an essentialized community of Zionists. While many in our community share our opinions (we are particularly appreciative of the efforts of Law Students for Palestine at McGill), Jews who question or critique Zionism are being marginalized. We sympathize with the authors of the recent statement by the JLSA - they are motivated by trauma and pain. Yet, in justifying the killings of civilians, dismissing calls for a ceasefire, and denying that Palestinian voices are being suppressed, they are perpetuating the very pain they are now suffering. In light of the disappointing trend within our community to justify Israeli war crimes under the guise of self-defence, we adamantly remind all readers that such voices do not represent all Jewish people. Instead, we look to the increasingly vocal minority of anti-Zionist Jews worldwide calling for an immediate ceasefire and a de-escalation of the conflict. Organizations like **B'Tselem, Jewish Voice for Peace, Independent Jewish Voices, and If Not Now are part of the Jewish consciousness. Ignoring such voices, maligning them, or questioning their fidelity to Judaism advances an essentialist view of identity that obscures our complex, diasporic, and diversified history and subsequently likens critiques of Israel to antisemitism. Indeed, the notion that all Jews must support Israel is itself antisemitic and plays into the long-touted "dual loyalties" trope. A diverse religion thousands of years old resists being reduced to a modern political ideology.**

As we wrte this, the Israeli military has launched a bombing campaign that has killed over 5,000 Palestinians in Gaza, including at least 2,074 children, while Israeli settlers, armed by the Israeli state, are attacking Palestinian communities in the West Bank with impunity.

Many Zionists have questioned the veracity of those numbers. However, the casualty figures reported by the Gaza health ministry have a proven track record of reliability, as they have consistently aligned with numbers derived from independent investigations conducted by third-party organizations such as the United Nations and Human Rights Watch. Furthermore, thousands of victims are the logical conclusion when a densely populated area is hit with hundreds of airstrikes per day. The sad reality is that while we go back and forth about the number of dead civilians, more are dying every minute. How many must die to matter?

We, too, mourn the loss of Israeli civilian life and the targeted killing of more than 1200 civilians by Hamas militants. But we firmly reject the weaponization of our grief as a justification for further loss of life.

Now is not the time to sit on the sidelines. We are watching a genocide unfolding in real time. None of us are free until Palestinians are no longer forced to endure apartheid, blockades, and settler violence.

We join with Jewish communities around the world, many of us direct and intergenerational survivors of genocide, to call for the Boycott, Divestment, and Sanction of Israel and to end the siege of Gaza.

Never Again is now: no genocide in our name.

THE HONOURABLE G. I. SMITH MEMORIAL TRUST

The G. I. Smith Memorial Trust is pleased to offer the G. I. Smith Memorial Award, a $2,500 bursary for a deserving Nova Scotia law student. The award honours the memory of Truro lawyer "Ike" Smith, a member of the Nova Scotia Bar for 50 years. He was MLA for Colchester County from 1949 until 1974, serving in several Cabinet positions in the governments of Robert Stanfield, and succeeding him as Premier of Nova Scotia from 1967 until 1970. He was appointed to the Senate in 1975 and served until his death in 1982.

Applicants must be full time law students or articled clerks from Nova Scotia who have satisfactorily completed at least one (1) year of study at a recognized law school and be continuing their legal education, this includes second year law students, third year law students, articled clerks and students engaged in graduate law studies.

Applicants must have demonstrated significant activity in the areas of public and community affairs, sports, or arts and entertainment, and have demonstrated interest in bettering themselves, their communities and their province through professional and volunteer efforts.

Applicants must exhibit financial need.

Applicants must have shown a high level of academic competence.

Applications (including academic records and two reference letters) should be sent to:

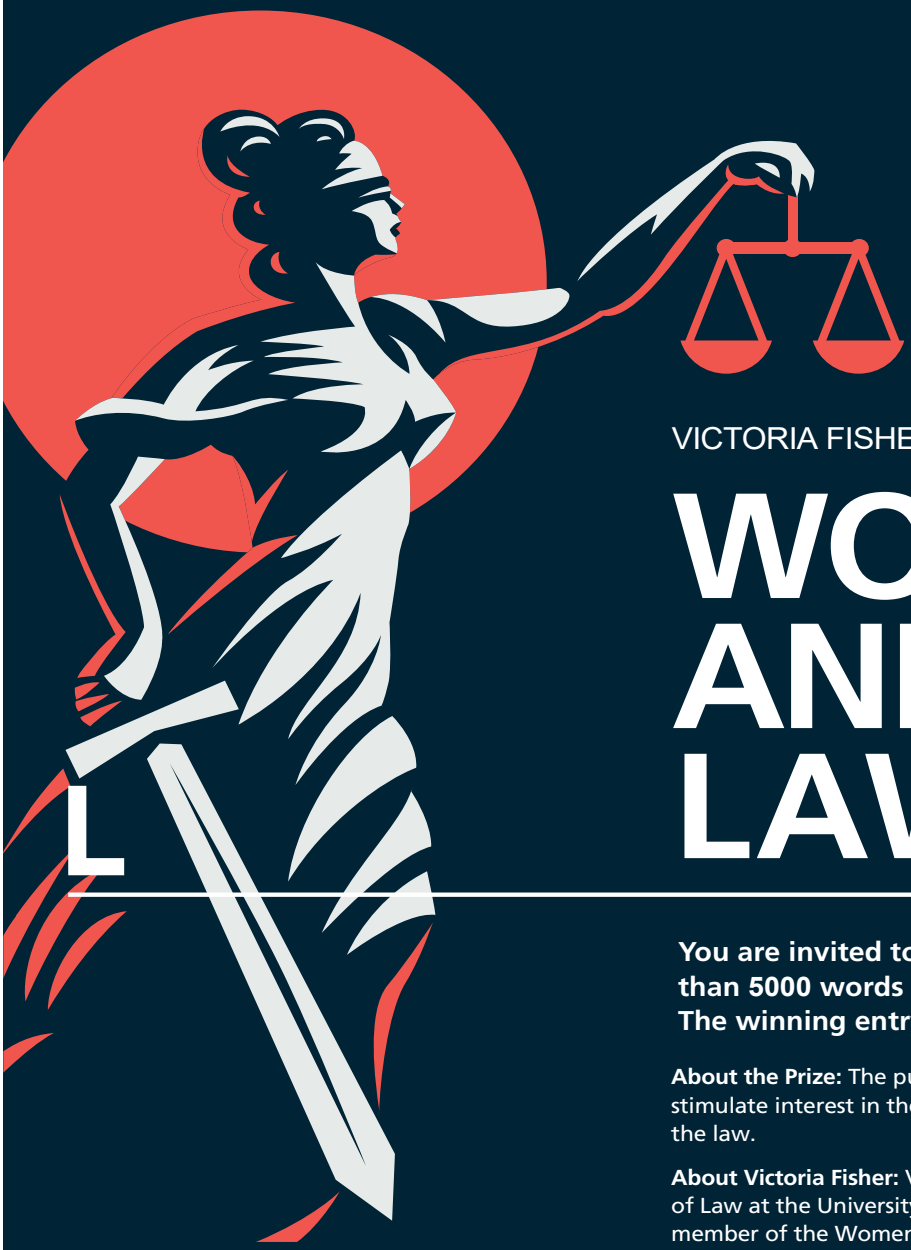
Alison MacLean, Chair
G. I. Smith Memorial Trust
c/o Patterson Law
10 Church Street
Truro, Nova Scotia, B2N 3Z6

or

sbenoit@pattersonlaw.ca

The deadline for the receipt of application is January 26, 2024.

UNIVERSITY OF LEICESTER



VICTORIA FISHER MEMORIAL PRIZE 2023

WOMEN AND THE LAW

You are invited to write an essay of not more than 5000 words relating to the above topic. The winning entry will be awarded £250.

About the Prize: The purpose of the annual prize is to stimulate interest in the relationship between women and the law.

About Victoria Fisher: Victoria was a lecturer in the School of Law at the University of Leicester. She was a founder member of the Women and Law group and an active trade unionist.

Entries to be received by November 30 2023

To find out how to enter contact:
Mrs Linda Henfrey, Victoria Fisher Memorial Prize Fund
t: +44 (0) 116 252 2363 e: lawreception@le.ac.uk

www.le.ac.uk/law

WHY IS "COMMON LAW" STILL "COMMON LAW" IN FRENCH?"

Ordren Deko | 3L

Stories are composed of words and words, in turn, are storied. Whether the kind of word, etymology—the study of the origin of words and the historical development of their form and meanings[1]—acts as the narrator on how human thought and sound resulted in the combination of letters to create such words. This means that the famous pangram "the quick brown fox jumps over the lazy dog" has enough human history, explaining why "fox" is the word for fox or "lazy" the word for lazy, to fill an entire novel.

This storytelling extends even further once you bring in the issue of translation. When a word emerges in one human language, but the thing it describes becomes widespread, how will it look in other languages? Here there are two stories. The first involves the innovation that brought the word into human speech in its original language. The second concerns its entrance into a foreign language. Did it become a loanword? If not a loanword, did the entrance into this secondary language engender a cognate or a calque? Stories are imbued, for example, in the lopsided dichotomy between the words *ananas* and *piña* to describe the word pineapple. Most languages, around 42, adopted some variation of the former word whereas 10 chose to incorporate the latter into their lexicons. The ubiquity of *ananas* is wholly the outcome of human agency, through a series of events, compiling a story. It was borrowed directly from Portuguese *ananás*, itself borrowed from Old Tupi *nanas* which means "excellent fruit."[2] As for the less popular choice, its origin derives from the imagination of Christopher Columbus who referred to the fruit as "pinecone of the [Indigenous]."[3]

More relevant to our Faculty is the story behind the word "common law" specifically in French which translates the British invention as "common law." I have always wondered why the term "common law" has not been translated as *droit commun* much like civil law is *droit civil*? This seemingly runs contrary to the work of the Académie française and its devout North American counterpart, the Office québécois de la langue française, both of which exert great power to ward off *anglicismes*. As you'd expect by now, an anthology of stories exists to contextualize this anomaly.

Why wouldn't French translate "common law" into *droit commun*? Well, it seems that word has already been taken; *droit commun* or *ius commune*, the Roman legal concept, designates the set of rules which generally apply to all residents within a given territory. Despite also describing the common law itself, *droit commun* is a specific legal concept divorced from the formation of common law as a word and a separate legal system. To translate "common law" into *droit commun* would be a disaster; how would anyone know which *droit commun* you are talking about?

French, however, as a part of the Romance family, has the advantage of borrowing from its sister languages when it needs a translation, as was the case when pineapple entered the European continent. Looking first to Spanish, "common law" is translated as *derecho anglosajón*. The same translation can be found in Occitan and Catalan, the former being native to southern France. Unfortunately, once again we are met with the obstacle of confusion. *Derecho anglosajón* which translates into Anglo-Saxon law already exists in French. *Droit anglo-saxon* signifies a corpus of written rules and customs that were in place during the Anglo-Saxon period in England, right before the Norman conquest (and the advent of the common law!).

French linguists have not gone down without a fight, however. Other attempts at finding a translation include *droit coutumier* and *droit jurisprudentiel.* Although common law contains elements of customary law, *droit coutumier* gives the impression that the law in question is merely verbal, derived from tradition, whereas in reality, a great deal of emphasis exists on written text. On the other hand, *droit jurisprudential* or "judge-made law" would only be telling half the story since common law also relies on parliamentary statutes.

Therefore, a story of practicality, of avoiding confusion underpins the term "common law" in the French language. This story was echoed in the late 1990s when the National Program for the Integration of Both Official Languages in the Administration of Justice agreed to continue using "common law" in French, without a translation, notably due to its predominant and pre-existing usage. While this story involves no tropical faraway lands nor mentions the explorers who reached them, it nonetheless reveals the brainstorming and creativity (or perhaps lack thereof) that resulted in the word "common law" remaining unscathed upon entry into the French language.

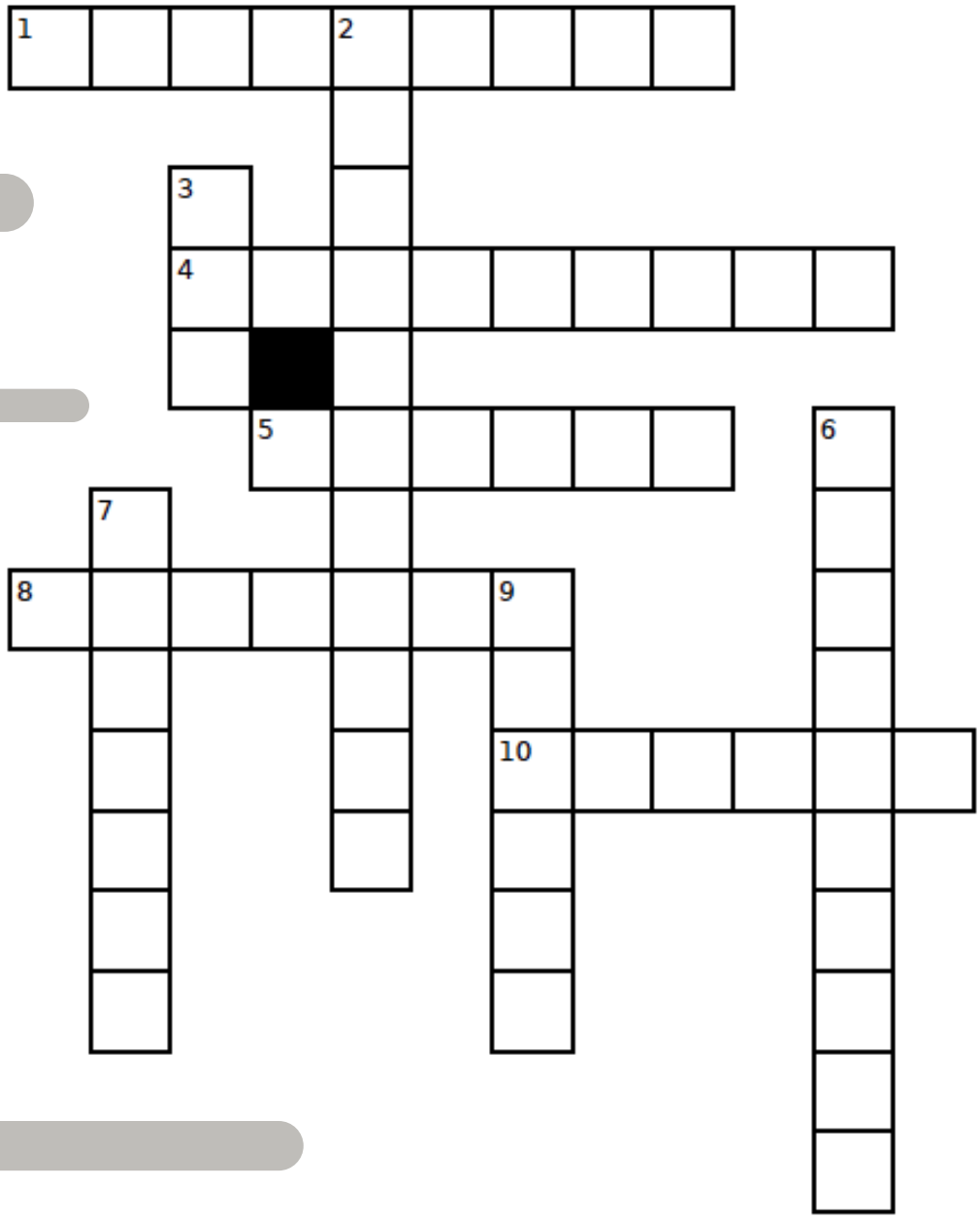
[1] *Oxford English Dictionary*, (Oxford: Oxford University Press, 2000) sub verbo "etymology".

[2] Another story emerges: What made pineapple an excellent fruit to the Tupi people?

[3] The actual translation contains the outdated term Indian.

CROSSWORD

Jessie Khalil | 3L



Down:

2. Thursday 5 - 7
3. Civil law degree
6. Monthly faculty email
7. Elected LSA queen
9. Intruders

Across:

1. Maxwell Cohen's classroom nickname
4. Most expensive part of the basement
5. Nahum
8. Michael Shortt's well of knowledge
10. Hotspot to hangout or study

OPEN CALL FOR BLOG POSTS

The Universal Declaration of Human Rights at 75: Human rights protection in a fragile multilateral order

This is an open call for blog posts. The CHRLP invites as wide a diversity of voices as possible to submit posts on critical questions touching on the above theme. We also welcome submissions about human rights and (or) legal pluralism more broadly.

Some reflections on the theme:

With the year 2023-2024 marking the 75th anniversary of the UDHR, and the halfway point of the lifespan of the UN's Sustainable Development Goals, there is a unique opportunity to reflect on the UN's treaty-based and goal-based human rights frameworks and assess their effectiveness. The UN's stated aims of promoting international peace and security and human rights seem as elusive as ever as humanitarian crises in several regions of the world worsen and democracy backslides internationally. Regional insecurity seems further likely to persist with deadlock at the UN Security Council, dynamics of great power politics returning in the international system, and weakening state capacity and willingness for multilateral humanitarian interventions, such as UN Peacekeeping Operations. This theme invites prospective authors to consider where the UN ought to go from here and whether, and in what form, organizational reform is required. Must the treaty-based human rights approach embodied by the UDHR be adapted for the inter-state dynamics of the current age? The theme also allows prospective authors to imagine new alternatives or discuss existing ones, independent of the UN system, which still serve to promote the UDHR's aims.

How to submit a post:

Authors are asked to adhere to the following standards when submitting their piece. Anything not mentioned here is at the discretion of the author.

We accept original pieces on a rolling basis, and aim for publication within 3-4 weeks from reception, provided the submission requirements are respected. Please be mindful that we are not personal editors and will not accept partially edited pieces. Only advanced drafts will be accepted.

The primary purpose of a blog post is to further a new idea, present a news development, initiate a discussion, or engage in debate. A strong piece will contain original analysis that spurs a critical reflection or starts an interesting conversation. Blog posts do not have to adhere to an academic style of argumentation and can be more casual in tone. However, to be considered for publication, a blog post must fulfill the following criteria:

- Short, incisive and argument-driven piece, 800-1200 words
- 12-point, Times New Roman font with 1" or 1.5" spacing
- Change in sections with a single line
- Short subtitles, left-aligned in bold lettering
- In-text hyperlinks encouraged
- Sources as supporting evidence to the author's claims, although citations are not necessary. If included, footnote form in adherence with the Canadian Guide to Uniform Legal Citation, 10th edition is preferred.

Recommended structure:

- Brief introduction presenting the argument and necessary context for the reader;
- 2-3 main body paragraphs working through a logical and reasoned succession of points. Headings are encouraged;
- Conclusion summarizing the argument and calling the reader to action.

Examples of blog posts can be found here: https://www.mcgill.ca/humanrights/blog

Editing process:

We receive submissions on a rolling basis. Submissions may be accepted or rejected at the discretion of the editors. Authors may also be asked to revise and re-submit their piece. This means that the piece needs substantially more work in order to be considered for publication, but we are interested in the general ideas presented by the author and would like to read another draft. Generally, editors will return all submissions with feedback within 2 weeks.

If accepted for publication, the piece will undergo the following editing process:

First read: The blog editors require 1-2 weeks to do a first read, after which the revised piece will be returned to the author with editorial comments and recommendations. These recommendations are intended to be constructive (rather than mandatory), and a collaborative approach is invited.

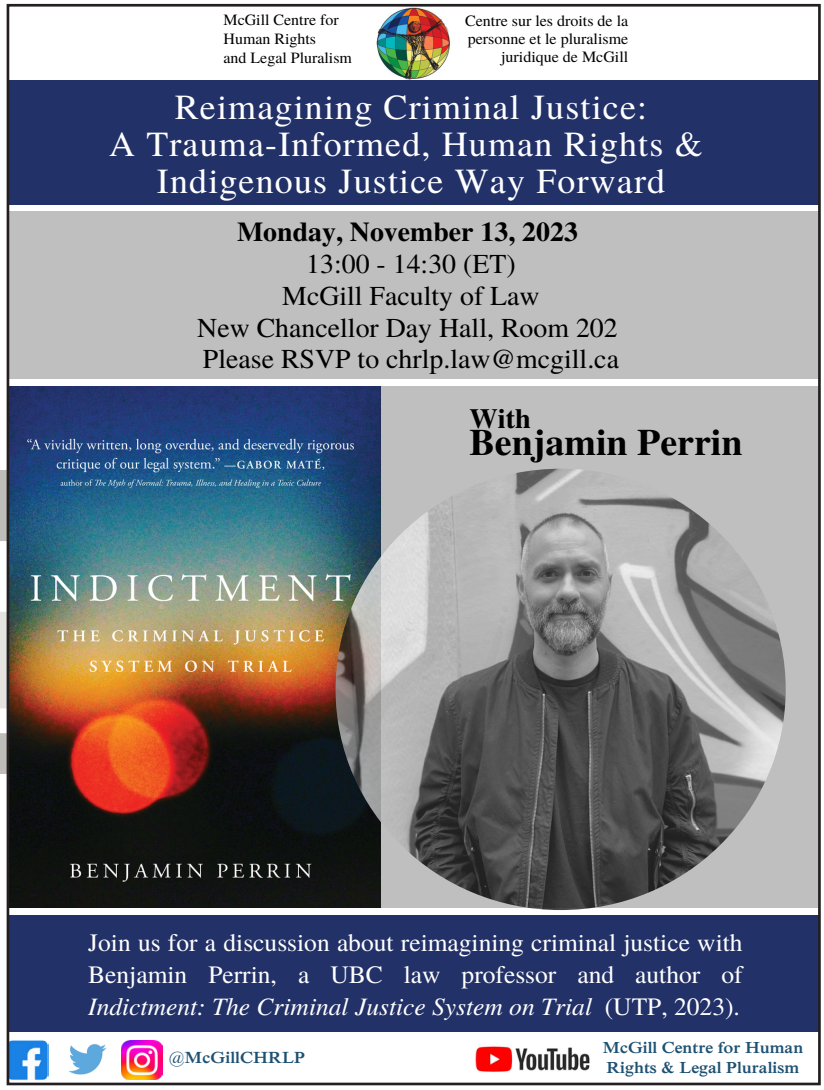
Second read: The author is then asked to submit a revised draft, at which time the editors will do a second read. If the editors find the piece ready, they will proceed with publication. If further drafts are requested, the editors will be in touch with the author.

Image to accompany the post: When submitting the first or second draft, the author is asked, if possible, to send a high-resolution evocative image (to which they have the rights; reference included, please) to illustrate the piece. If no such image is available, the editors, in consultation with the author, will procure one from the public domain.

Bio and photo of the author: When submitting the first or second draft, the author is asked to send a short bio of 2-3 sentences and, if comfortable, a high-resolution portrait-style photograph for posting on the web.

Note: The editors retain the right to refuse, at any moment in the above process, to publish a piece. Considerations for the refusal will be communicated to the author.

Submissions should be emailed to human.rights@mcgill.ca



TELLING ANOTHER'S STORY

How Martin Scorsese told an Osage story with respect

Gary Preteau | 4L

Martin Scorsese's film *Killers of the Flower Moon* tells the story of a series of murders of the Osage people in the early 20th century known as the Reign of Terror. However, Scorsese is not Osage. This situation has led to discussions on whether artists should tell stories that are not theirs or does not represent their lived experience.

Let me admit my bias at the outset. I consider Scorsese to be one of the best living filmmakers and consider *Killers of the Flower Moon* to be one of the year's best films. I think Scorsese did a phenomenal job telling an Osage story without being Osage. The following discussion may have spoilers, but I tried not to delve into more detail than could be gleaned from the film's promotional material.

First, it is pivotal that Scorsese left space for Osage involvement in this story about their community. Rather than the Osage being portrayed solely on Scorsese's understanding, the Osage were consultants on the film and many Osage people acted in the film. Thanks to their efforts, the portrayal of the Osage language, clothing and customs produced a level of authenticity that Jim Gray, a descendant of a Reign of Terror victim, had not seen from a mainstream Hollywood film.[1]

Additionally, Scorsese responded to the concerns of the Osage. Prior to filming, Scorsese met with the Osage and descendants of people who were murdered in the Reign of Terror. The Osage expressed to Scorsese that they wanted him to "[b]e the director to make a film that this industry hasn't seen." Scorsese later overhauled the script and, rather than focusing the initial story on the FBI's role in solving a murder, centred the story on the relationship between Ernest and Mollie Burkhart, an Osage woman, as the murders unfold.

In his storytelling, Scorsese exhibits a self-awareness that is often missing when telling the story of another people. Scorsese is at his best telling stories of American crime and corruption. Past projects like *Goodfellas*, *The Irishman*, and *Wolf of Wall Street* all investigate American criminals and show these lifestyles to be the source of both glamour and moral decay.

As mentioned earlier, Scorsese is a white American, not Osage. Consequently, the film is told from the perspective of Ernest Burkhart, the white man who marries into an Osage family. It is generally ill-advised to place a white character at the centre of an Indigenous story. It makes the Indigenous story about the white character and can produce stories which rely on the white saviour trope.

However, Ernest is no white saviour of the Osage people. Nor is he treated like a neutral surrogate through which the audience sees the story. Scorsese revisits his recurring theme of American crime and explicitly depicts Ernest as greedy and the perpetrator of horrible crimes against the Osage. The most charitable interpretation of Ernest is that, while he does intentionally commit acts of evil, he is also stunningly naïve to other evils. My own interpretation is that of an evil man wilfully blind to the worst of his sins.

Further, Scorsese does not glamourize

[1] Harmeet Kaur, "How the Osage Nation helped Martin Scorsese make 'Killers of the Flower Moon' more authentic" (21 October 2023) online: <cnn.com/2023/10/21/entertainment/killers-of-the-flower-moon-osage-nation-cec/index.html>

Ernest and his crimes, which has been a criticism of his prior works like *Goodfellas* and *Wolf of Wall Street*. Even the least media literate person could not find anything "cool" or aspirational about Ernest Burkhart.

As someone who has cinematically meditated on the crimes of white Americans for nearly half a century, Scorsese's best way to tell this Osage story is through the perspective of the white criminals behind murder and exploitation. Rather than tell the Osage perspective without the lived experience to inform it, Scorsese took his perspective as a white storyteller of an Osage story seriously, both in pre-production and his narrative choices. The result was a story told through a white character's perspective while openly condemning most of its white characters and did not obfuscate the realities of colonialism.

Killers of the Flower Moon is not free from criticism. Christopher Cote, a language consultant on the film, expressed conflicted feelings at the film's premiere. He praised Scorsese's representation of the Osage while also recognizing that the film "isn't made for an Osage audience, it was made for everybody not Osage."[2] He also expressed a desire for the film to be from the perspective of Mollie Burkhart and her Osage family but acknowledged that it would likely take an Osage to do that.[3]

Cote's points are compelling. An Osage recounting of the Reign of Terror would likely better represent the resiliency of the Osage Nation and could express the community's suffering in ways that Scorsese's perspective lacks. Additionally, the use of Ernest Burkhart's perspective teaches a lesson of white crime and exploitation that is aimed to a non-Osage audience, as the Osage are already tragically familiar with it.

In an ideal world, the Reign of Terror story would be told by an Osage filmmaker whose perspective could paint an accurate picture of the Osage experience during the Reign of Terror. However, Lily Gladstone, the film's female lead, noted that an Osage filmmaker will not receive the same budget and resources as Scorsese.[4] Gladstone also argued for the necessity of collaboration with prominent directors like Scorsese until Indigenous directors can reach such a stature to get studio-sized budgets.[5]

I am always grateful to watch a Scorsese film. Even with the outstanding criticism, I am glad that *Killers of the Flower Moon* shines a spotlight on Indigenous history that has been long ignored. I hope that the film's success is a step towards a future where Indigenous filmmakers and stories have greater space in theatres around the world.

[2] Kristen Chuba, "Osage Consultant Admits to Complicated Feelings Over 'Killers of the Flower Moon': "This Film Isn't Made for an Osage Audience" (17 October, 2023) online: <hollywoodreporter.com/movies/movie-news/killers-of-the-flower-moon-osage-consultant-mixed-feelings-1235620231/>

[3] *Ibid.*

[4] Christian Zilko "Lily Gladstone Tempers Optimism About Native American Progress in Hollywood: 'Nobody Is Going to Hand an Osage Filmmaker $200 Million" (23 September 2023) online: <indiewire.com/news/general-news/lily-gladstone-nobody-would-hand-osage-filmmaker-200-million-1234908271/>

[5] *Ibid.*

LETTER TO McGILL LEADERSHIP

Law Students for Palestine at McGill

Dear Principal Saini, Associate Provost Campbell, Deputy Provost Labeau and Dean Leckey,

We, a collective of 63 students in the Faculty of Law at McGill University, are writing this open letter to express our solidarity with the people of Palestine and to express our concern regarding the University's failure to adequately respond to the ongoing crisis in Gaza. As students, we are deeply concerned by how McGill's leadership and administration have responded to students' needs as this global crisis has unfolded; and as future jurists, we are horrified by the flagrant violations of international human rights and humanitarian law currently taking place in Gaza.

Many legal practitioners, scholars, experts on genocide, and humanitarian organizations have clearly stated that Israel is committing war crimes in Gaza, including:

- Indiscriminate bombing, as of October 26 has killed 6,850 people, 70% of whom are children, women and the elderly.
- Indiscriminate bombing, as of October 26 has killed 3,000 Palestinian children in Gaza.
- Indiscriminate bombing as of October 26 has injured more than 17,000 Palestinians in Gaza.
- Indiscriminate bombing, destroying an UNWRA school as well as Gaza's oldest church and numerous mosques;
- Indiscriminate bombing, destroying healthcare facilities, ambulances, refugee camps and the killing of four Palestine Red Crescent paramedics;
- The use of white phosphorus on October 10 and 11;
- The October 13 order to civilians in northern Gaza to evacuate, which has resulted in the mass forced displacement of more than 1 million people.

While most of the attention has been on the atrocities occurring in Gaza, we cannot ignore the escalated violence in the West Bank. Between October 7 and 26, 105 Palestinians have been killed in the West Bank. In the Palestinian town of Qusra, Israeli forces and settlers have damaged Palestinian homes and a mosque, burned down olive groves, and even killed a father and a son during a funeral procession for four Palestinian men killed by settler violence earlier in the week. Long before the October 7 events, Israel has been imposing a system of apartheid on Palestinians, as part of its ongoing settler colonial proj-

ect. Moreover, Israel has been imposing a blockade by land, air and sea on the Gaza Strip for the last 16 years.

On October 8, October 10, and October 12, McGill issued communications expressing concern over the October 7 attack by Hamas on Israel, which targeted civilians, and involved violations of international humanitarian law. There was no mention of the evidence of war crimes and longstanding colonial violence by Israel in these emails. The University's mission includes upholding integrity, equity and inclusiveness. Moreover, Principal Saini stated in his October 12 email that "our campus community can only thrive when all feel safe, supported, and included." Despite this, the communications issued by McGill's leadership have been incredibly harmful and have instilled a deep distrust towards the University. By failing to condemn Israel's crimes, failing to acknowledge the pain and violence experienced by Palestinians, and explicitly using "othering" language, the University has failed to adequately respond to this moment of global crisis and has left many students, faculty and staff feeling alienated from this institution. McGill has yet to issue adequate communications expressing concern over Israel's violations of international law or expressing explicit sympathy for Palestinian community members. The University has a pattern of staying silent when Arabs or other racialized groups are experiencing political violence. To selectively send out communications expressing concern only when the victims of such violence are racially white (as also evidenced by the Principal's email sent on March 2, 2022, on the situation in Ukraine) is telling of the University's implicit racism.

The University has also committed to upholding academic freedom which extends to "intramural and extramural activities." McGill claims it is committed to protecting academic freedom from undue influence from or pressure by internal or external actors who might limit the exercise of this freedom. These rights are reiterated in articles 25-26 of the Charter of Students' Rights which encompasses students' freedoms of opinion and expression. Despite this, there is a systemic silencing of Palestinian voices and of those who express solidarity for the plight of the Palestinian people. This often manifests through doxxing, harassment and intimidation, undermining our aforementioned rights, as well as our collective rights of freedom of expression and freedom of peaceful assembly. In addition, the university administrators have unfairly equated pro-Palestinian activism with endorsing violence and hateful ideologies, employing the same colonial logic that long underpinned European colonialism, including in Apartheid South Africa.

Within the Faculty of Law, on October 13, Dean Leckey issued a statement which was sent to the faculty and posted on his LinkedIn, only expressing solidarity for the victims of Hamas's actions. In doing so, Dean Leckey's words contributed to the erasure of the Palestinian victims at the hands of Israel, referring to them merely as "others." After receiving feedback from disheartened community members, Dean Leckey issued a subsequent email on October 16 in which he acknowledged the pain of Palestinian students. However, he did not recognize the blatant violations of international law by Israel. His messaging remained the same on LinkedIn. This troubles us greatly given that as the Dean of one of Canada's leading law schools, his words and position hold significant influence within the legal community.

McGill prides itself on being a leading international institution that brings together students from 150 countries. As former Principal Fortier mentioned in a previous communication regarding the situation in Ukraine "global crises can affect us all." Given the University's commitments to equity, diversity, and inclusion, McGill has an obligation to condemn Israel's war crimes and to ensure academic freedoms are upheld for all members of the community. This is also a pivotal moment and an opportunity for the University to be on the right side of history.

In order to restore a sense of safety, inclusion, and trust for a significant segment of the McGill community, and to curtail damage to the University's credibility as a leading site of rigorous knowledge production, we urge the University's leadership to take the following actions:

1. For Principal Saini to issue public communications condemning Israel's violations of international law;
2. For Dean Leckey to issue subsequent messages on LinkedIn and to the law student body condemning Israel's violations of international law;
3. For McGill University to establish an independent reporting mechanism for students, faculty and staff experiencing doxxing, harassment and intimidation and/or to commission a report to better understand the ongoing systemic silencing of pro-Palestinian voices and ensure accountability;
4. For the Faculty of Law to cease the clerkship program with the Supreme Court of Israel;
5. For Mcgill University to cease exchange programs with Israeli institutions, including Ben Gurion University of the Negev, Hebrew University of Jerusalem, Technion-Israel Institute of Technology, Tel Aviv University, and Hebrew University Business School;
6. For McGill University to cut ties with current and future Zionist donors; and
7. For McGill University to divest from weapons manufacturers which arm Israel (Boeing, Raytheon, Lockheed Martin, General Dynamics, Northrop, Grummand, etc.);
8. For McGill to add its voice to those calling on the Canadian government demanding an immediate ceasefire.

Sincerely,

Law Students for Palestine at McGill

CROSSWORD ANSWERS

1. Moot Court
2. Coffeehouse
3. BCL
4. Cafeteria
5. Gelber
6. Mot du doyen
7. Justine
8. PubDocs
9. SNAILS
10. Atrium

EDITOR-IN-CHIEFS | RÉDACTEURS EN CHEF
Anna McAllister
Pablo Mhanna-Sandoval

SOCIAL MEDIA DIRECTOR | DIRECTRICE DES RÉSEAUX SOCIAUX
Gabrielle Torrealba

DIRECTOR OF DISTRIBUTION | DIRECTEUR DE DISTRIBUTION
Kamil Chaoui

ART DIRECTOR AND LAYOUT EDITOR | DIRECTRICE ARTISTIQUE ET ÉDITRICE DE MISE EN PAGE
Souang Wu
Camille Duhaime

COPY EDITORS | SECRÉTAIRES DE RÉDACTION
Ben Foster
Brandon Grimaldi
Despina Tritos
Giuseppe Sutera Sardo
Jerod Miksza

COLUMNISTS | CHRONIQUEURES ET CHRONIQUEUSES
Gary Preteau
Ordren Deko

CONTRIBUTORS | CONTRIBUTEURS
Frédéric Mégret
Jessie Khalil
Law Students for Palestine
McGill Jewish Law Students' Association
McGill Law Jewish Students and Alumni
Samuel Benzaquen
Weeam Ben Rejeb

Special thanks to Prairie Koo for designing the layout.

~

The Quid Novi is published weekly by the students of the Faculty of Law at McGill University. Production is made possible through the direct support of students. All contents copyright © 2023 Quid Novi.

Les opinions exprimées sont propres aux auteurs et ne réflètent pas nécessairement celles de l'équipe du Quid Novi. The content of this publication does not necessarily reflect the views of the McGill Law Students' Association or of McGill University.

Envoyez vos commentaires ou articles avant jeudi 17h00 à quid.law@mcgill.ca.
Toute contribution doit indiquer le nom de l'auteur, son année d'étude ainsi qu'un titre et un sous -titre pour l'article. Les images doivent être soumises séparément. L'article ne sera publié qu'à la discrétion du comité de rédaction, qui basera sa décision sur la politique de rédaction disponible sur notre Facebook @quidnovi.mcgill.